

HOUSE BILL NO. 169

INTRODUCED BY MCALPIN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE ENFORCEMENT OF THE TOBACCO MASTER SETTLEMENT AGREEMENT; CLARIFYING THE APPLICATION OF THE TOBACCO RESERVE FUND LAWS TO ROLL-YOUR-OWN TOBACCO; REQUIRING A TOBACCO PRODUCT MANUFACTURER WHO WISHES TO HAVE PRODUCTS LISTED ON THE ATTORNEY GENERAL'S DIRECTORY OF PRODUCTS PERMISSIBLE FOR SALE IN MONTANA TO DEMONSTRATE COMPLIANCE WITH THE LAW; ALLOWING THE ATTORNEY GENERAL TO REQUEST THE DEPARTMENT OF JUSTICE TO PROCEED JUDICIALLY TO SEEK REVOCATION OF A NONCOMPLIANT WHOLESALER'S LICENSE; CLARIFYING THE CALCULATION OF ATTORNEY FEES, COSTS, AND PENALTIES RECOVERED IN ENFORCEMENT ACTIONS; REVISING AND EXTENDING RULEMAKING AUTHORITY; REVISING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 16-11-402, 16-11-404, 16-11-502, 16-11-503, 16-11-507, 16-11-509, 16-11-511, AND 17-7-502, MCA; AND PROVIDING EFFECTIVE DATES AND A CONTINGENT VOIDNESS PROVISION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-11-402, MCA, is amended to read:

"16-11-402. Definitions. (1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under

1 ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any
2 substance not containing tobacco; or (b) tobacco, in any form, that is functional in the product, which, because
3 of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to,
4 or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing
5 tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling,
6 is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this definition. The
7 term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging,
8 or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making
9 cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute
10 one individual "cigarette."

11 (5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered
12 into on November 23, 1998 by the State and leading United States tobacco product manufacturers.

13 (6) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial
14 institution having no affiliation with any tobacco product manufacturer and having assets of at least
15 \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds'
16 principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds
17 into escrow from using, accessing or directing the use of the funds' principal except as consistent with
18 16-11-403(2) of this Act.

19 (7) "Released claims" means Released Claims as that term is defined in the Master Settlement
20 Agreement.

21 (8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement
22 Agreement.

23 (9) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly
24 (and not exclusively through any affiliate):

25 (a) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States,
26 including cigarettes intended to be sold in the United States through an importer (except where such importer
27 is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will
28 be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a
29 result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes
30 specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such

1 cigarettes does not market or advertise such cigarettes in the United States);

2 (b) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere
3 that the manufacturer does not intend to be sold in the United States; or

4 (c) becomes a successor of an entity described in paragraph (a) or (b). The term "Tobacco Product
5 Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls
6 within any of paragraphs (a) - (c) above.

7 (10) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco
8 product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries)
9 during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own"
10 tobacco containers) bearing the excise tax stamp of the State. The department of revenue shall promulgate such
11 regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco
12 product manufacturer for each year."

13
14 **Section 2.** Section 16-11-404, MCA, is amended to read:

15 **"16-11-404. Attorney fees and costs.** (1) In an action under 16-11-403(2)(c), the court, upon a finding
16 that a tobacco product manufacturer has failed to comply with its obligations under 16-11-403(1) or (2)(a), shall
17 award the attorney general the expenses incurred in investigating the claim, the costs of suit, and reasonable
18 attorney fees. In cases in which outside counsel represents the attorney general, the attorney fees awarded must
19 equal the outside counsel charges reasonably incurred by the attorney general for attorney fees and expenses
20 in prosecuting the action. In all other cases, the attorney fees must be calculated by reference to the hourly rate
21 charged by the agency legal services bureau for the provision of legal services to state agencies, multiplied by
22 the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses
23 reasonably incurred in the prosecution of the action.

24 (2) Investigation expenses, attorney fees, and costs recovered under this section are allocated to the
25 department of justice for deposit in the attorney general's major litigation account and may be used by the
26 attorney general for any purpose for which funds appropriated to that account may be used. ~~The funds are~~
27 ~~statutorily appropriated as provided in 17-7-502.~~ (Certain provisions void on occurrence of contingency--sec.
28 16, Ch. 397, L. 2003.)"

29
30 **Section 3.** Section 16-11-502, MCA, is amended to read:

1 **"16-11-502. Definitions.** As used in this part, the following definitions apply:

2 (1) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from
3 one another by means of additional modifiers or descriptors, including but not limited to "menthol", "lights",
4 "kings", and "100s", and includes any use of a brand name (alone or in conjunction with any other word),
5 trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product
6 identification identical or similar to or identifiable with a previously known brand of cigarettes.

7 (2) "Cigarette" has the meaning provided in 16-11-402.

8 (3) "Department" means the department of revenue.

9 (4) "Master Settlement Agreement" has the meaning provided in 16-11-402.

10 (5) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating
11 manufacturer.

12 (6) "Participating manufacturer" has the meaning provided in section II(jj) of the Master Settlement
13 Agreement defined in 16-11-402 and all amendments thereto.

14 (7) "Qualified escrow fund" has the meaning provided in 16-11-402.

15 (8) "Tobacco product manufacturer" has the meaning provided in 16-11-402.

16 (9) "Units sold" has the meaning provided in 16-11-402.

17 (10) "Wholesaler" means a person that is authorized to affix tax insignia to packages or other containers
18 of cigarettes under 16-11-113, ~~or any~~ a person that is required to remit the tobacco tax imposed on cigarettes
19 pursuant to 16-11-111, or a person that is required to remit the tobacco tax imposed on other tobacco products
20 under 16-11-202. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003.)"

21
22 **Section 4.** Section 16-11-503, MCA, is amended to read:

23 **"16-11-503. Certifications.** (1) Every tobacco product manufacturer whose cigarettes are sold in this
24 state, whether directly or through a wholesaler, distributor, retailer, or similar intermediary or intermediaries, shall
25 execute and deliver, on a form prescribed by the attorney general, a certification to the director of the department
26 and the attorney general, no later than April 30 of each year, certifying under penalty of perjury that, as of the
27 date of the certification, the tobacco product manufacturer either is a participating manufacturer or is in full
28 compliance with ~~16-11-403~~ parts 4 and 5 of this chapter and any rules adopted pursuant to 16-11-511.

29 (2) A participating manufacturer shall include in its certification a list of its brand families.

30 (3) (a) A nonparticipating manufacturer shall include in its certification a list of all of its brand families,

1 the number of units sold in the state during the preceding calendar year for each brand family, and a list of all
2 of its brand families that have been sold in the state at any time during the current calendar year.

3 (b) The certification must indicate by an asterisk any brand family sold in the state during the preceding
4 calendar year that is no longer being sold in the state as of the date of the certification.

5 (c) The certification must identify by name and address any other manufacturer of the brand families
6 in the preceding or current calendar year.

7 (4) A tobacco product manufacturer shall update its list of brand families 30 calendar days prior to any
8 addition to or modification of its brand families by executing and delivering a supplemental certification to the
9 attorney general and the director of the department.

10 (5) A nonparticipating manufacturer shall further certify:

11 (a) that the nonparticipating manufacturer is registered to do business in the state and has appointed
12 an agent for service of process and has provided notice as required by 16-11-506;

13 (b) that the nonparticipating manufacturer has:

14 (i) established and continues to maintain a qualified escrow fund; and

15 (ii) executed a qualified escrow agreement that has been reviewed and approved by the attorney general
16 and that governs the qualified escrow fund;

17 (c) that the nonparticipating manufacturer is in full compliance with 16-11-403 and this section and any
18 rules adopted pursuant to 16-11-403 and this section;

19 (d) (i) the name, address, and telephone number of the financial institution where the nonparticipating
20 manufacturer has established the qualified escrow fund required by 16-11-403 and all rules adopted pursuant
21 to 16-11-403;

22 (ii) the account number of the qualified escrow fund and any subaccount number for the state of
23 Montana;

24 (iii) the amount the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold
25 in the state during the preceding calendar year, the date and amount of each deposit, and any evidence or
26 verification considered necessary by the attorney general to confirm the provisions of this subsection (5)(d)(iii);
27 and

28 (iv) the amounts and dates of any withdrawal or transfer of funds that the nonparticipating manufacturer
29 made at any time from the qualified escrow fund or from any other qualified escrow fund into which the
30 nonparticipating manufacturer ever made escrow payments pursuant to 16-11-403 and all rules adopted

1 pursuant to 16-11-403.

2 (6) A tobacco product manufacturer may not include a brand family in its certification unless:

3 (a) in the case of a participating manufacturer, the participating manufacturer affirms that the brand
4 family is to be considered its cigarettes for purposes of calculating its payments under the Master Settlement
5 Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement
6 Agreement; and

7 (b) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the
8 brand family is to be considered to be its cigarettes for purposes of 16-11-403.

9 (7) This part may not be construed to limit or otherwise affect the state's right to maintain that a brand
10 family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payment
11 under the Master Settlement Agreement or for purposes of 16-11-401 through 16-11-403.

12 (8) A tobacco product manufacturer shall maintain all invoices and documentation of sales and other
13 similar information relied upon for its certifications for a period of 5 years unless otherwise required by law to
14 maintain them for a longer period of time. (Certain provisions void on occurrence of contingency--sec. 16, Ch.
15 397, L. 2003.)"

16
17 **Section 5.** Section 16-11-507, MCA, is amended to read:

18 **"16-11-507. Reporting of information.** (1) Not later than 20 calendar days after the end of each
19 calendar quarter and more frequently if directed by the attorney general, each wholesaler shall submit
20 information that the attorney general requires to facilitate compliance with this section by nonparticipating
21 manufacturers, including but not limited to a list by brand family of the total number of nonparticipating
22 manufacturer cigarettes or, in the case of nonparticipating manufacturer roll-your-own tobacco, the equivalent
23 amount of tobacco, calculated as provided in 16-11-402(4), on which the wholesaler precollected tax as provided
24 in 16-11-113 or 16-11-203 and that the wholesaler sold during the period covered by the report. The wholesaler
25 shall maintain and make available to the attorney general all invoices and documentation of sales of all
26 nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the attorney
27 general for a period of 5 years.

28 (2) The department is authorized to disclose to the attorney general any information received by it and
29 requested by the attorney general for purposes of determining compliance with and enforcing the provisions of
30 this part. The department and attorney general shall share the information received under this part with each

1 other and may share the information with other federal, state, or local agencies only for the purposes of
2 enforcement of 16-11-403, this part, or the corresponding laws of other states.

3 (3) The attorney general may require at any time from the nonparticipating manufacturer proof from the
4 financial institution in which the manufacturer has established a qualified escrow fund for the purpose of
5 compliance with 16-11-403 of:

6 (a) the amount of money in the fund, exclusive of interest;

7 (b) the amount and dates of each deposit to the fund; and

8 (c) the amount and dates of each withdrawal from the fund.

9 (4) In addition to the information required to be submitted pursuant to subsections (1) through (3), the
10 attorney general may require a wholesaler or tobacco product manufacturer to submit any additional information,
11 including but not limited to samples of the packaging or labeling of each brand family, to enable the attorney
12 general to determine whether a tobacco product manufacturer or wholesaler is in compliance with this part. All
13 information submitted by a wholesaler or tobacco product manufacturer under this section must be full, complete,
14 and accurate. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003.)"

15
16 **Section 6.** Section 16-11-509, MCA, is amended to read:

17 **"16-11-509. Penalties and other remedies.** (1) In addition to any other civil or criminal remedy
18 provided by law, upon a determination that a wholesaler has violated 16-11-505 or any rule adopted pursuant
19 to that section, the department may revoke or suspend the license of the wholesaler ~~may be revoked or~~
20 ~~suspended~~ in the manner provided by 16-11-144 in a proceeding ~~brought~~ initiated by the department or by at
21 the request of the attorney general. For each violation of 16-11-505, a civil penalty in the amount of \$250 for the
22 first full or partial pack and \$10 for each additional full or partial pack to which a tax insignia is affixed or that is
23 sold, offered for sale, or possessed for sale in violation of 16-11-505 may be imposed. Each tax insignia affixed,
24 ~~and each offer to sell cigarettes,~~ AND EACH PACK SOLD, OFFERED FOR SALE, OR POSSESSED FOR SALE in violation of
25 16-11-505 constitutes a separate violation. The penalty may be imposed in the manner provided by 16-11-143(2)
26 in a proceeding brought by the department or the attorney general.

27 (2) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation
28 of 16-11-505 may be considered contraband under 16-11-147. The cigarettes are subject to seizure and
29 forfeiture as provided in 16-11-147, and all cigarettes seized and forfeited must be destroyed and not resold.

30 (3) The attorney general may seek an injunction to restrain a threatened or actual violation of 16-11-505

or 16-11-507(1) or (4) by a wholesaler and to compel the wholesaler to comply with those sections.

(4) (a) In any action brought pursuant to this part, the prevailing party is entitled to recover the costs of the action and reasonable attorney fees calculated as provided in 16-11-404. If the state is the prevailing party, its recoverable costs must include the state's costs of investigation of the violation.

(b) In cases in which the state is the prevailing party and outside counsel represents the attorney general, the attorney fees awarded must equal the outside counsel charges reasonably incurred by the attorney general's office for attorney fees and expenses in prosecuting the action. In all other cases in which the state is the prevailing party, the state's attorney fees must be calculated by reference to the hourly rate charged by the agency legal services bureau of the department for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action.

(5) (a) It is unlawful for a person to:

(i) sell, offer for sale, or distribute cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505; or

(ii) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505.

(b) A violation of this section is a misdemeanor punishable as provided in 16-11-148.

~~(c) For each violation of this section, a civil penalty in the amount of \$250 for the first full pack and \$10 for each additional full or partial pack that is sold, offered for sale, acquired, held, owned, possessed, transported, imported, or caused to be imported in violation of 16-11-505 may be imposed. Each pack sold, offered for sale, acquired, held, owned, possessed, transported, imported, or caused to be imported in violation of 16-11-505 constitutes a separate violation. The penalty may be imposed in the manner provided in 16-11-143(2) in a proceeding brought by the department or the attorney general.~~

(6) If a court determines that a person has violated this part, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be paid to the state treasurer for deposit in the trust fund created by Article XII, section 4, of the Montana constitution.

~~(7) Penalties recovered under part 4 of this chapter and subsection (1) and, investigation expenses, attorney fees, and costs recovered under subsection (4)~~ PARTS 4 AND 5 OF THIS CHAPTER are allocated to the department OF JUSTICE for deposit in the major litigation account and may be used for any purpose for which funds deposited in that account may be used. [The funds are statutorily appropriated, as provided in 17-7-502,

1 to the department OF JUSTICE.]

2 ~~(7)~~(8) Unless otherwise expressly provided, the remedies or penalties provided by this part are
3 cumulative to each other and to the remedies or penalties available under all other laws of this state. (Certain
4 provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003.)"

5
6 **Section 7.** Section 16-11-511, MCA, is amended to read:

7 **"16-11-511. Rules.** The attorney general may adopt rules necessary to implement part 4 and this part.
8 (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003.)"

9
10 **Section 8.** Section 17-7-502, MCA, is amended to read:

11 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
12 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
13 the need for a biennial legislative appropriation or budget amendment.

14 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
15 of the following provisions:

16 (a) The law containing the statutory authority must be listed in subsection (3).

17 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
18 appropriation is made as provided in this section.

19 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
20 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
21 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 16-11-509; 17-3-106; 17-3-212;
22 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512;
23 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409;
24 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102;
25 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214;
26 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and
27 90-9-306.

28 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
29 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
30 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana

1 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
2 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
3 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
4 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
5 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
6 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
7 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
8 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
9 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
10 the inclusion of 2-15-151 terminates June 30, 2005.)"

11
12 **Section 9.** Section 17-7-502, MCA, is amended to read:

13 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
14 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
15 the need for a biennial legislative appropriation or budget amendment.

16 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
17 of the following provisions:

18 (a) The law containing the statutory authority must be listed in subsection (3).

19 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
20 appropriation is made as provided in this section.

21 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
22 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
23 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; ~~16-11-404~~; 17-3-106; 17-3-212; 17-3-222;
24 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
25 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612;
26 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;
27 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313;
28 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

29 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
30 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued

pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

NEW SECTION. Section 10. Effective dates. (1) [Sections 1 and 3 through 7 and this section] are effective on passage and approval.

(2) [Sections 2, 8, 9, and 11] are effective July 1, 2005.

NEW SECTION. Section 11. Contingent voidness. If the general appropriations act approved by the 59th legislature appropriates at least \$75,639 for fiscal year 2006 and at least \$72,618 for fiscal year 2007 to the department of justice for personal services, equipment, and operating expenses for a full-time attorney position for the purpose of conducting enforcement matters related to the tobacco settlement agreement described in 16-11-401, then [section 2], the bracketed language in [section 6], and [sections 8 and 9] are void.

- END -